IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

THURSDAY, THE 19TH JULY 2007 / 28TH ASHADHA 1929

MFA.No. 1392 of 1996()

IC.73/1993 of EMPLOYEES INSURANCE COURT, ALAPPUZHA
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APPELLANT: (OPPOSITE PARTY)

THE REGIONAL DIRECTOR,
EMPLOYEES STATE INSURANCE CORPORATION,
THRISSUR.

BY ADV. SRI.TPM.IBRAHIM KHAN

RESPONDENTS: (APPLICANT & 2ND OPPOSITE PARTY)
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1. M/S.SAPPHIRE INDUSTRIES,
WEST VENGOLA, PERUMBAVOOR,
REP.BY ITS PROPRIETOR,
M.V.ABDU.

2. THE RECOVERY OFFICER,
EMPLOYEES STATE INSURANCE CORPORATION,
THRISSUR 20.

BY ADV. SRI.M.V.JOSEPH - R1

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 19/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY & K.P.BALACHANDRAN, JJ.

M.F.A.NO.1392 OF 1996 (D)

Dated this the 19th day of July, 2007

J U D G M E N T

KOSHY,J.

When notice was issued by the appellant for covering the establishment of the respondents under the E.S.I. scheme contending that on the date of inspection, that is, on 21.5.1991, Inspector found that more than ten persons were working in the establishment, the respondent approached the E.I.Court. E.I.Court took elaborate evidence and three witnesses were examined on the side of the petitioner and two witnesses were examined on the side of respondents. Documents like cash book register, attendance register etc. for the relevant period were produced by the respondent. Various notices issued and inspection reports were produced by the appellant. It was found that out of the ten persons said to be employed in the establishment on the date of inspection the name of the son of the petitioner, who was a student at that

time, was also included as employee. He was never employed in the establishment. No remuneration was paid to him. Attendance register also shows that establishment never employed 10 or more persons on any day. There was repeating in the names also. On a finding of fact, E.I.Court from the evidence came to the conclusion that ten persons were not employed in the establishment on any day during the relevant period. Therefore issuance of coverage and consequent demand were set aside by the E.I.Court. This order is based on appreciation of evidence and finding of facts and no substantial question of law is involved. Hence this appeal is dismissed.

J.B.KOSHY, JUDGE

K.P.BALACHANDRAN, JUDGE

prp

J.B.KOSHY & K.P.BALACHANDRAN, JJ.

M.F.A.NO.1392 OF 1996 (D)

J U D G M E N T

19th July, 2007